

Inquiry into scrap metal theft

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Submission to the Transport and Resources Committee's Scrap Metal Theft Inquiry

Department of Justice and Attorney-General on behalf of the Queensland Government

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1. Context and Introduction

The Department of Justice and Attorney-General (DJAG), on behalf of the Queensland Government, thanks the Transport and Resources Committee (Committee) for the opportunity to make this written submission to the Scrap Metal Theft Inquiry. DJAG, and other Queensland Government agency attendees, also appreciated the opportunity to provide the Committee with a verbal briefing on 11 September 2023.

On 9 August 2023, the Honourable Yvette D’Ath MP, Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence (Attorney-General), announced at the Legal Affairs and Safety Committee Estimates Hearing that the Government proposed a parliamentary committee inquiry into metal theft.

On 15 August 2023, the Attorney-General convened a round table on scrap metal theft with key stakeholders to inform the development of terms of reference for an inquiry. The round table was attended by representatives of: Moreton Bay City Council, Queensland Police Service (QPS), Department of Transport and Main Roads (TMR), Department of Energy and Public Works (DEPW), Department of Environment and Science (DES), Office of Industrial Relations within the Department of Education (OIR), Department of Agriculture and Fisheries, Energy Queensland, Powerlink, Queensland Rail, Motor Trades Association of Queensland, Waste Recycling Industry Queensland, National Transport Insurance, Australian Petroleum Production and Exploration Association Ltd, Infrabuild, Civil Contractors Federation and the Housing Industry Association.

On 24 August 2023, the Attorney-General made a ministerial statement in the Legislative Assembly noting that the Queensland Government is committed to looking at what more can be done to deter, detect and disrupt criminal scrap metal activity and that the Government would establish a parliamentary committee inquiry into copper and other metal theft.

The Attorney-General noted that the inquiry would look at options for curbing the ability of criminals to dispose of, and profit from, the sale of stolen metal through the scrap metal industry and this would include examining contemporary legislative, regulatory, and enforcement frameworks for deterring, detecting and disrupting scrap metal theft, as well as identifying other non-regulatory measures to tackle this problem.

The Attorney-General moved a motion (which was agreed to) in the Legislative Assembly that the Committee inquire into and report to the Legislative Assembly by 24 November 2023 on scrap metal theft in Queensland, and in doing so, consider several matters forming the terms of reference.

On 11 September 2023, the Committee received a verbal briefing on metal theft issues from DJAG, QPS, Energy Queensland (for DEPW), TMR, Department of Resources, Department of Tourism, Innovation and Sport and the Electrical Safety Office within the OIR.

This written submission has been coordinated by DJAG on behalf of the Queensland Government and contains further information from agencies that attended the 11 September 2023 public briefing. The submission is focused on relevant terms of reference insofar as they relate to relevant departments’ responsibilities. As a Government Owned Corporation, Energy Queensland has not contributed to this submission. However, it is understood that Energy Queensland will provide a separate submission to the Committee.

2. Department of Justice and Attorney-General

Terms of Reference 6 - The effectiveness of the existing Queensland laws and approach in preventing, investigating and prosecuting scrap metal theft in Queensland

Second-hand Dealers and Pawnbrokers Act 2003

In Queensland, the *Second-hand Dealers and Pawnbrokers Act 2003* (SHDP Act) regulates the activities of second-hand dealers and pawnbrokers, including second-hand dealers buying and selling scrap metal. Second-hand dealing typically involves a business acquiring, disposing of, exchanging and selling second-hand property.

The term 'second-hand property' refers to personal property that has been used. Personal property is property other than real property (such as real estate). Under the SHDP Act, 'second-hand property' excludes newspapers, books, pamphlets, periodicals or other printed publications, stamps, collectors' cards, coins, motor vehicle batteries, used tyres and property returned for a refund.¹ The SHDP Act does not include a definition of scrap metal.

The second-hand goods market is diverse, ranging from the sale of second-hand furniture, antiques, jewellery, second-hand mobile phones, household appliances, and computer games, through to businesses selling second-hand heavy equipment used in the mining and agricultural industries, such as forklifts and tractors.

In 2002, on the recommendation of the National Competition Policy (NCP) review, the *Second-hand Dealers and Collectors Act 1984* and the *Pawnbrokers Act 1984*, were combined to form the SHDP Act.² The SHDP Act is supported by the *Second-hand Dealers and Pawnbrokers Regulation 2004* (SHDP Regulation).

The NCP review focussed on competition issues and resulted in consolidation of the two previous Acts and minor improvements, mostly to licensing processes. When the Acts were combined into the SHDP Act, the 'fit and proper' test was replaced with a 'suitability' test. Licensees are given the option to apply for and renew their licence for a period of either 1 or 3 years. The SHDP Act also introduced the option for second-hand dealers and pawnbrokers to record their transactions electronically.³

Since this time, a number of amendments have been made to the SHDP Act. These are summarised in Table 1.

Objectives of the legislation

The main objectives of the SHDP Act are to:

¹ Schedule 3, SHDP Act. Schedule 1, SHDP Regulation.

² Review of the Second-hand Dealer and Collectors Act 1984 and the Pawnbrokers Act 1984 National Competition Policy Public Benefit Test Report (ncc.gov.au).

³ Second-hand Dealers and Pawnbrokers Bill 2003 (legislation.qld.gov.au) Explanatory Notes.

- regulate the activities of second-hand dealers and pawnbrokers;
- deter crime in the second-hand property market; and
- help protect consumers from purchasing stolen property.⁴

The objectives of the legislation are intended to be met by requiring second-hand dealers to be licensed and to adhere to conduct requirements contained in the SHDP Act.

The Office of Fair Trading (OFT) within DJAG has appointed inspectors, who are authorised to investigate alleged breaches and impose penalties for breaches of licensing and conduct requirements. OFT aims to deliver a fair and safe marketplace for Queensland consumers and businesses.⁵

As the SHDP Act also has the aim of crime deterrence, it is jointly enforced with the Queensland Police Service (QPS). The record keeping requirements under the SHDP Act are intended to assist QPS to identify and recover stolen property.

Structure and administration of the legislation

The SHDP Act has three key components, which are explained in more detail below, namely:

- licensing;
- conduct; and
- education, compliance and enforcement.

Licensing

The SHDP Act requires persons carrying on a business of dealing in second-hand property, or acting as a market operator, in Queensland, to be licensed as a second-hand dealer.⁶ A 'market operator' is defined as a person carrying on the business of conducting a trash and treasure market, a flea market, an antique market, or an antique fair.⁷ The SHDP Act does not provide a definition of 'carrying on business'. However, 'carrying on business' implies selling for profit on a regular basis.⁸ Section 6(2) of the SHDP Act lists the exemptions from this requirement, including charities registered under the *Collections Act 1966* and businesses hiring property, but mostly the exemptions are due to the person having to hold another licence. This includes, for example:

- a chattel auctioneer, motor dealer or motor salesperson under the *Motor Dealers and Chattel Auctioneers Act 2014* (the sale of motor vehicle parts and the relevant licence is further detailed below); or
- a licensed gun dealer trading in second-hand guns under the *Weapons Act 1990*.

The SHDP Act also requires persons carrying on a business of pawnbroking to be licensed as a pawnbroker.⁹ Under the SHDP Act a licence can be held by an individual, a partnership or a

⁴ Section 3, SHDP Act.

⁵ <https://www.justice.qld.gov.au/about-us/services/fair-trading>, accessed on 14 September 2023.

⁶ Section 6(1), SHDP Act.

⁷ Schedule 3, SHDP Act.

⁸ Miller's Australian Competition and Consumer Law Annotated 23rd Edition, Russell Miller, paragraph 1.2A.20, page 326.

⁹ Section 6(3), SHDP Act.

corporation, with two types of licences available: a second-hand dealer licence and a pawnbroker licence. It is also possible to hold a combined licence. A licensee can apply for either a 1 year or a 3 year licence.¹⁰

Failure to comply with the requirements to be licensed to carry on the regulated activities carries a maximum penalty of 200 penalty units. A penalty unit is currently \$154.80,¹¹ making 200 penalty units a total of \$30,960. A corporation may be subject to a maximum amount that is five times the maximum fine for an individual,¹² currently equating to a total of \$154,800.

Applicants for a licence must meet a suitability test which excludes insolvent persons and persons convicted of a disqualifying offence in the past 5 years.¹³ For the purpose of the SHDP Act, disqualifying offence provisions under the Criminal Code include stealing, offences analogous to stealing, stealing with violence, other fraudulent practices, receiving property stolen or fraudulently obtained and like offences, punishment of forgery and like offences, personation (defrauding by falsely representing to be another person) and conspiracy.

To obtain a licence, the applicant must state the type of licence being applied for, name each place the applicant intends to carry on business, the principal place of business, and provide the names and addresses of the applicant's associates.¹⁴ An associate is defined as a person who would be in 'effective control of the licensee's business at a place'.¹⁵

Licensing of wreckers under the *Motor Dealers and Chattel Auctioneers Act 2014*

Under the *Motor Dealers and Chattel Auctioneers Act 2014* (MDCA Act) a motor dealer licence allows a person to, among other things:

- acquire used motor vehicles, whether or not as complete units, to break up for sale as parts;
- sell these used motor vehicles as parts.¹⁶

The SHDP Act provides that a motor dealer does not require a second-hand dealer licence, to the extent that they are authorised under the MDCA Act, to lawfully deal with second-hand property.¹⁷ The MDCA Act provides for dealing in used motor vehicle parts.

The MDCA Act does not include a definition of 'scrap metal' or 'parts'.

Where a motor wrecker sells a vehicle or parts of a vehicle as scrap metal, they are required to obtain a second-hand dealer licence under the SHDP Act.

Conduct

Second-hand dealers must operate their business from an authorised place, but they may operate more than one authorised place. Second-hand dealers must display their name at each place of

¹⁰ Section 10, SHDP Act.

¹¹ Penalties and Sentences (Penalty Unit Value) Amendment Regulation 2023 (legislation.qld.gov.au) (<https://www.legislation.qld.gov.au/view/pdf/asmade/sl-2023-0040>), accessed on 14 September 2023.

¹² Section 181B, Penalties and Sentences Act 1992.

¹³ Section 7, SHDP Act. Disqualifying offences are set out in Schedule 3.

¹⁴ Section 10, SHDP Act.

¹⁵ Section 5(1), SHDP Act.

¹⁶ Section 76(1)(e), MDCA Act.

¹⁷ Section 6(2)(b), SHDP Act.

business.¹⁸ Second-hand dealers must keep a printed or electronic transactions register for each place of business.¹⁹ The SHDP Regulation prescribes that entries in a transactions register must be legible.²⁰ Second-hand dealers must record every second-hand property transaction in the transactions register.

The SHDP Regulation sets out the required particulars to be recorded for a 'second-hand property transaction'. A 'second-hand property transaction' means a transaction for the acquisition, sale or disposal of:

- second-hand property with a resale value of at least \$55; or
- second-hand property that is jewellery, contains precious metals or may be identified by:
 - a make, model, or serial number on the property, or
 - an inscription.²¹

The SHDP Act does not define the meaning of 'precious metal'.

The record of the transaction when acquiring second-hand property as part of a second-hand property transaction must include:

- the time and date of the transaction;
- a description of the property and any identification marks;
- the name and address of the person from whom the property is being acquired;
- the type of verification of the person's name and address; and
- whether the person is the owner of the property.²²

If the person is not the owner of the property, the name and address of the owner and how the person acquired the property should also be recorded in the transactions register.²³

In addition, there are other record keeping requirements for when property is sold, exchanged or disposed of by the second-hand dealer as part of a second-hand property transaction. For example, when second-hand property is sold by a second-hand dealer the name and address of the person buying the property must be recorded (but verification of those details are not required).²⁴

The SHDP Act also provides that a second-hand dealer must not separate second-hand property into parts to avoid entering the particulars for a second-hand property transaction, which may include for example, breaking property up into amounts with a resale value of less than \$55 each.²⁵

¹⁸ Section 36, SHDP Act.

¹⁹ Section 37, SHDP Act.

²⁰ Section 5, SHDP Regulation.

²¹ Section 37(5), SHDP Act.

²² Section 37, SHDP Act. Details to be recorded in the transactions register are set out in sections 5 and 6 of the SHDP Regulation.

²³ Section 6 of the SHDP Regulation.

²⁴ Section 6(2)(b) of the SHDP Regulation.

²⁵ Section 37(3), SHDP Act.

The transactions register for the premises must be kept at the same premises.²⁶ Failure to comply with the requirements under the transactions register have a maximum penalty of 200 penalty units. A corporation may be subject to a maximum amount that is five times the maximum fine for an individual,²⁷ which is \$154,800.

Second-hand dealers must provide information from the transactions register to QPS;²⁸ failure to do so has a current maximum penalty of 200 penalty units. The SHDP Regulation does not prescribe how or when the information is to be given to QPS. OFT provides sample transactions registers for both second-hand dealers and pawnbrokers on the Queensland Government website.²⁹ The sample transactions register gives the example of a Queensland driver's licence as a suitable document to verify someone's name and address.

Second-hand dealers must keep 'nominated property' for 7 days. Nominated property includes jewellery, precious metals, or property (not household furniture) which may be identified by make, model, serial number, or inscription plus electrical equipment (not including a refrigerator, washing machine, clothes dryer, stove, or dishwasher), a musical instrument, photographic equipment, a natural diamond, or gemstone.³⁰

Before a licensed dealer acquires second-hand property from a person, they must:

- take the person's name and address;
- verify the person's name and address; and
- enquire as to whether the person is the owner of the property.³¹

If the seller advises they are not the owner, then the licensed dealer must also obtain the name and address of the owner and ask how the seller acquired the property.³²

A licensed dealer may also become aware of information, either written, printed or oral information, describing stolen property. If they suspect that second-hand property they have acquired matches the description of stolen property, they are required to report this to police as soon as practicable.³³

A licensed second-hand dealer may not acquire second-hand property from anyone under the age of 17, or from anyone under the influence of alcohol or drugs.³⁴

Also, a second-hand dealer may not acquire second-hand property from a person at that person's home on a Sunday or public holiday, or on any other day outside of the hours of 7am to 6pm.³⁵ If the second-hand dealer has received the person's consent at least one day prior for the acquisition to take place outside of the allowable hours, they can carry out the acquisition without contravening the SHDP Act.

²⁶ Section 38, SHDP Act.

²⁷ Section 181B, *Penalties and Sentences Act 1992*.

²⁸ Section 39, SHDP Act.

²⁹ <https://www.publications.qld.gov.au/dataset/oft-second-hand-industry-forms-and-guides>, accessed on 14 September 2023.

³⁰ Schedule 3, SHDP Act.

³¹ Section 47, SHDP Act.

³² *Ibid*.

³³ Section 48, SHDP Act.

³⁴ Section 45, SHDP Act.

³⁵ Section 46, SHDP Act.

Education, Compliance and Enforcement

As noted, the SHDP Act has joint objectives of consumer protection and crime deterrence and is jointly enforced by OFT and QPS. Police are empowered to enforce the SHDP Act under the *State Penalties Enforcement Act 1999* in relation to infringement notices.

Stealing is an offence under the Criminal Code. Reports of theft of scrap metal, or any other personal property, are handled by QPS. OFT, within DJAG, ensures compliance with the licensing and conduct provisions in the SHDP Act.

OFT's compliance framework aims to ensure businesses, including occupations that OFT licences (such as second-hand dealers under the SHDP Act), comply with fair trading laws. Under the framework, OFT conducts a coordinated program of:

- educational activities – informing businesses about their responsibilities under the law;
- compliance monitoring – making sure businesses are following the law; and
- enforcement activities – acting when businesses do not follow the law.³⁶

OFT's compliance work includes proactive activities, such as operations involving unannounced spot checks under its Proactive Regulation of Industry and Marketplace Entities program (PRIME), and reactive activities, such as investigating consumer complaints.

OFT's PRIME activities are focused on a broad cross-section of licensees regulated by the agency, not only second-hand dealers. The agency targets its compliance resources based on identified risks and analysis of the marketplace. It focuses efforts on industry sectors, licensees and traders most likely to cause harm, and consumers most at risk. OFT recognises the majority of traders in Queensland want to comply with the law and its regulatory response escalates as a trader's attitude to compliance deteriorates.

OFT also participates in proactive compliance operations with other agencies, including QPS, Queensland Transport, Queensland Health and the Department of Environment and Science (DES). In terms of the SHDP Act, joint operations are part of broader industry checks, examining, for example, whether there is criminal activity or breaches of waste and environmental laws. The purpose of OFT's participation is to check compliance with the SHDP Act including checking that appropriate licenses are held and the requirements to keep a transaction register are being met.

Statistics

There are currently 1163 licensees under the SHDP Act, comprised of 1000 second-hand dealers, 9 pawnbrokers and 154 who hold both a second-hand dealer licence and a pawnbroker licence.

The SHDP Act does not identify a particular industry the second-hand dealer may be operating in, for example, antiques, general second-hand goods, or scrap metal. However, to assist the Committee, OFT has attempted to estimate the number of licensees who deal in scrap metal by virtue of the licensee's trading name where the name includes such terms as 'metal', 'metal recycling', 'copper' or

³⁶ <https://www.qld.gov.au/law/laws-regulated-industries-and-accountability/queensland-laws-and-regulations/regulated-industries-and-licensing/fair-trading-enforcement/compliance-program>, accessed on 14 September 2023.

‘scrap metal’. On this basis, OFT has identified 30 licensed second-hand dealers who may specialise in trading in scrap metal.

Enforcement, compliance and education activities in the last financial year

In the 2022-23 financial year, there were three (3) scheduled operations conducted, targeting compliance within the second-hand dealer industry:

- Operation SHD 22/23, which was an OFT operation where targeted compliance checks were conducted on second-hand dealers to ensure their licensing requirements and compliance obligations were being met;
- Operation Wreckers 22/23, which was an OFT operation where targeted compliance checks were conducted on automotive wreckers involved in acquiring vehicles to ensure they are appropriately licensed and their legislative obligations were being met; and
- Operation Tensile 22/23, which was a two-day compliance operation involving OFT, DES, and QPS targeting 32 metal recyclers across southeast Queensland, aimed at enforcement action being taken at over 21 unlicensed sites.³⁷ The purpose of the operation was to target identified metal recyclers involved in the on selling of building materials and scrap metal to identify stolen property (including copper) and non-compliance with OFT and DES legislation.

In the 2022-23 financial year, there were also:

- nine (9) spot checks conducted on second-hand dealers undertaken as a result of intelligence received and one (1) unannounced spot check on a second-hand dealer under an operation targeting traders who received high levels of complaints. As a result of these checks, 6 traders were found to be compliant and 2 were referred for further investigation (1 found to be operating unlicensed and the other compliant).
- eight (8) educational visits to this industry across Queensland. Of these visits, 5 were in the Gold Coast region, and 1 each in the Sunshine Coast, Hervey Bay and Rockhampton regions.

In total OFT completed 88 spot checks on traders selling second hand goods in 2022-23. From these, 30 were referred for further OFT investigations. The offences identified from those investigations included:

- unlicensed second-hand dealer (33.3%);
- failure to identify place of business (10%);
- failure to keep register at place of business (20%);
- unlicensed motor dealer (10%);
- failure to obtain particular information before acquiring property (6.7%);
- motor dealer fail to keep register (6.7%);
- failure to keep certain goods for seven (7) days (3.3%); and
- no breach identified (10%).

³⁷ <https://www.des.qld.gov.au/our-department/news-media/mediareleases/operation-tensile-targets-scrap-metal-operations>.

As a result of compliance work in the 2022-23 financial year in relation to second hand dealers, OFT issued 23 warnings and four (4) infringement notices under the SHDP Act to second-hand dealers. No pawnbrokers received warnings or infringement notices. Five (5) warnings were also issued to wreckers under the MDCA Act.

Terms of Reference 7 – a recommended contemporary legislative, regulatory and enforcement framework for deterring, detecting and disrupting scrap metal theft which is informed by national and international approaches and experiences

The following provides an overview of the *Scrap Metal Industry Act 2016* in New South Wales and the *Second-Hand Dealers and Pawnbrokers Act 1989* in Victoria.

Scrap Metal Industry Act 2016 – New South Wales

In New South Wales (NSW), the *Scrap Metal Industry Act 2016* (NSW Act)³⁸ and *Scrap Metal Industry Regulation 2016* (NSW Regulation)³⁹ are administered by the New South Wales Police Force. The NSW Act's purpose is to regulate the scrap metal industry, primarily to assist police in addressing property crime.⁴⁰

The NSW Act defines scrap metal to mean any object of commercial value that:

- is made from or contains metal, and
- is sold or obtained as scrap metal for recycling of the metal.⁴¹

The regulations may prescribe exemptions to the definition of scrap metal. Section 4 of the NSW Regulation exempts aluminium cans.⁴²

Key regulatory measures in the NSW Act include:

- a requirement for registration of a scrap metal business with the Commissioner of Police – failure to register has a current maximum penalty of 100 penalty units (currently a penalty unit in NSW is \$110),⁴³
- a public register of scrap metal dealers is maintained by the NSW Police Force Security Licensing and Enforcement Directorate for public inspection on the NSW Police Force website;⁴⁴

³⁸ *Scrap Metal Industry Act 2016* No 42 (<https://legislation.nsw.gov.au/view/whole/html/inforce/current/act-2016-042#sec.12>), accessed on 14 September 2023.

³⁹ *Scrap Metal Industry Regulation 2016* (<https://legislation.nsw.gov.au/view/whole/html/inforce/current/sl-2016-0776>), accessed on 14 September 2023.

⁴⁰ https://www.police.nsw.gov.au/online_services/scrap_metal_industry, accessed on 14 September 2023.

⁴¹ Section 3, *Scrap Metal Industry Act 2016* [NSW]

⁴² Section 4, *Scrap Metal Industry Regulation 2016* [NSW]

⁴³ Section 5, *Scrap Metal Industry Act 2016* [NSW]

⁴⁴ https://www.police.nsw.gov.au/online_services/scrap_metal_industry, accessed on 14 September 2023

- a prohibition on payments in cash, or by cheque payable to cash or in kind with goods or services (current maximum penalty of 100 penalty units);⁴⁵
- a requirement for a record of transactions, including details of the person selling the scrap metal (current maximum penalty 50 penalty units).⁴⁶ The transaction records can be either electronic or in hard copy format. A sample of a transaction record required by the NSW Police can be found on the NSW Police Force website;⁴⁷
- where a scrap metal dealer suspects for any reason that scrap metal in their possession or sold to them may have been stolen 'or otherwise unlawfully obtained' they must inform the police without unreasonable delay (current maximum penalty 50 penalty units);⁴⁸ and
- a prohibition on scrap metal dealers from accepting a motor vehicle (or any motor vehicle body, engine or chassis) as scrap metal if it does not display its identification details (current maximum penalty 100 penalty units).⁴⁹

The NSW Act also includes additional police and Local Court powers specific to the industry. This includes:

- a provision to allow for short-term and long-term closure orders if the scrap metal business is not registered or serious criminal offences have been committed on the premises (compensation is not payable for a closure of premises); and
- authorising police officers without a warrant to enter premises at which a scrap metal business is being carried on, to investigate contraventions of the NSW Act and to search, take photographs and recordings, and seize and copy records.

The New South Wales Police Force, on behalf of the New South Wales Minister for Police and Emergency Services, has undertaken a statutory review of the NSW Act and found:

*The information collected through submissions and consultations revealed that the Act is generally well-supported. However, it is clear that the scrap metal industry has since evolved since the commencement of the Act and the consensus view is that more enforcement is required. We conclude that the policy objectives of the Act remain valid.*⁵⁰

Recommendations were made to the New South Wales Government, resulting in the *Scrap Metal Industry Amendment (Review) Act 2022*. The Act received assent on 18 October 2022,⁵¹ however some provisions do not appear to have commenced yet, which include:

- clarifying that carrying on a business includes from a location other than a scrap metal yard (for example from a vehicle);
- allowing police officers to stop and search a motor vehicle without a warrant for the purposes of determining compliance with, or contravention of, the NSW Act; and

⁴⁵ Section 12, *Scrap Metal Industry Act 2016* [NSW]

⁴⁶ Section 16, *Scrap Metal Industry Act 2016* [NSW]

⁴⁷ https://www.police.nsw.gov.au/online_services/scrap_metal_industry, accessed on 14 September 2023

⁴⁸ Section 13, *Scrap Metal Industry Act 2016* [NSW]

⁴⁹ Section 14, *Scrap Metal Industry Act 2016* [NSW]

⁵⁰ *Statutory review of the Scrap Metal Industry Act 2016*

(<https://www.parliament.nsw.gov.au/tp/files/81163/Statutory%20Review%20of%20the%20Scrap%20Metal%20Industry%20Act%202016.pdf>), page 2 Executive Summary, accessed on 14 September 2023.

⁵¹ *Scrap Metal Industry Amendment (Review) Act 2022* (<https://legislation.nsw.gov.au/view/pdf/asmade/act-2022-51>), accessed on 14 September 2023.

- increasing some penalties, including for carrying on a business of dealing in scrap metal without being registered, from 100 penalty units to 500 penalty units.⁵²

Second-Hand Dealers and Pawnbrokers Act 1989 - Victoria

The Victorian Government made amendments to its *Second-Hand Dealers and Pawnbrokers Act 1989* (Victorian Act) to regulate payments for scrap metal and to prevent and disrupt criminal activity in scrap metal dealings, which commenced on 30 May 2018.⁵³

The amendments expanded the purpose of the Victorian Act to regulate payments for scrap metal and to prevent and disrupt criminal activity in scrap metal dealings.⁵⁴

The laws were introduced through amendments to the Victorian Act and the new *Second-Hand Dealers and Pawnbrokers (General, Exemption and Record-Keeping) Regulations* (the Victorian Regulations) contained in the *Justice Legislation Amendment (Protective Services Officers and Other Matters) Act 2017*. The reforms included:

- banning cash sales for scrap metal to second-hand dealers and a prohibition on buying, disposing of, or possessing unidentified motor vehicles;⁵⁵
- a requirement to keep a transaction register for receiving and disposing of scrap metal transactions, separate from the existing requirement for second-hand goods;⁵⁶
- penalties for buying or selling scrap metal for cash;⁵⁷ and
- providing police officers with the power to enter premises, under the control of a second-hand dealer, without a warrant when a business of dealing in scrap metal is being carried on at the premises.⁵⁸

Under the Victorian Act, scrap metal is defined to mean anything of commercial value that is made from or contains metal; and is sold or obtained as scrap for recycling or reprocessing of the metal.⁵⁹ The Victorian Regulations clarify that scrap metal includes anything that contains 2% or less by weight of gold or silver and anything that contains 80% or less by weight of copper.⁶⁰ The Victorian Government website advises that:

*If your goods do not meet the scrap metal definition, they may be considered second-hand goods or motor cars. For example, goods containing more than 80% or more by weight of copper are considered second-hand goods rather than scrap metal. Anyone dealing in such goods must comply with additional requirements for second-hand goods under the Act, but the ban on cash for scrap will not apply.*⁶¹

⁵² *Scrap Metal Industry Amendment (Review) Act 2022*.

⁵³ *Justice Legislation Amendment (Protective Services Officers and Other Matters) Act 2017* and Explanatory Memorandum (https://content.legislation.vic.gov.au/sites/default/files/da1ff369-1eef-3148-8379-32eda2a82ebe_581261exi1.pdf), accessed on 13 September 2023.

⁵⁴ *Ibid.*

⁵⁵ Section 22, *Justice Legislation Amendment (Protective Services Officers and Other Matters) Act 2017*.

⁵⁶ Section 23, *Justice Legislation Amendment (Protective Services Officers and Other Matters) Act 2017*.

⁵⁷ Section 22, *Justice Legislation Amendment (Protective Services Officers and Other Matters) Act 2017*.

⁵⁸ Section 24, *Justice Legislation Amendment (Protective Services Officers and Other Matters) Act 2017*.

⁵⁹ Section 3, Definitions, Victorian Act.

⁶⁰ Section 6, Victorian Regulations.

⁶¹ <https://www.consumer.vic.gov.au/licensing-and-registration/second-hand-dealers-and-pawnbrokers/new-scrap-metal-laws>, accessed on 14 September 2023.

Cash payments for scrap metal have been prohibited with a maximum penalty of 200 penalty units. The current value of a penalty unit in Victoria is \$192.31.⁶² The Victorian Act clarifies that payments must be made by a cheque which is not transferable or payable to cash, or an electronic transfer of funds which does not involve e-currency. E-currency is explained on the Consumer Affairs Victoria website to be any internet based, electronic means of exchange that is not made via a bank or other authorised deposit taking institution, for example bitcoin.⁶³

The Victorian Act, in relation to second-hand dealers (which includes dealing in scrap metal), is administered and enforced by Victoria Police, including handling allegations about unregistered second-hand dealers. Victoria Police shares responsibility with Consumer Affairs Victoria for enforcing laws applying to pawnbrokers.⁶⁴

Offences introduced for the scrap metal amendments in Victoria include:

- buying or selling scrap metal for cash (200 penalty units);
- buying, disposing of or possessing an unidentified motor vehicle (200 penalty units);
- not keeping the records of transactions (20 penalty units); and
- giving false or misleading information to a police officer (50 penalty units).

Under the Victorian Regulations, police can issue on-the-spot fines including for:

- not being registered as a second-hand dealer (10 penalty units);
- dealing in cash for scrap (12 penalty units); and
- dealing in unidentified motor vehicles for scrap (12 penalty units).⁶⁵

Some comparisons between the NSW Act, Victorian Act and the Queensland SHDP Act

The NSW Act and Victorian Act prohibit the use of cash, or a cash-equivalent, for scrap metal. However, there are differences in the definition of scrap metal.

The NSW and Victorian Acts are regulated by the respective Police Force in each jurisdiction. In Queensland, the SHDP Act is administered jointly by OFT, in DJAG, and QPS.

The NSW Act uses a registration scheme with no suitability checks done, other than obtaining full, verified photo identification from the applicant. The Queensland SHDP Act and Victorian Act provide for a licensing or registration scheme which includes suitability requirements and disqualifying offences.

The Queensland SHDP Act does not define scrap metal or have scrap metal specific provisions, whereas the NSW and Victorian Acts do, noting the Victorian definition explained above.

⁶² Ibid.

⁶³ Ibid.

⁶⁴ <https://www.consumer.vic.gov.au/licensing-and-registration/second-hand-dealers-and-pawnbrokers/regulation>, accessed on 13 September 2023.

⁶⁵ <https://www.consumer.vic.gov.au/licensing-and-registration/second-hand-dealers-and-pawnbrokers/new-scrap-metal-laws>, accessed on 14 September 2023.

All Acts require certain seller information to be recorded. The Queensland SHDP Act and Victorian Act do not require the seller's date of birth to be recorded nor photo ID to verify identity for the purpose of buying scrap metal. The NSW Act requires name, residential address, and date of birth as shown on photo ID.

All three Acts require the reporting of suspected stolen property.

The NSW and Victorian Acts contain additional controls, such as police being able to serve a notice or order on a scrap metal dealer to not alter the form of any scrap metal suspected of being stolen, or dispose of it in any way.⁶⁶

Under the NSW and Victorian Acts, a scrap metal dealer is prohibited from buying or disposing of unidentified motor vehicles, and must not buy or sell any scrap metal that consists of a motor vehicle if the unique identifier has been removed, obliterated, defaced or altered.⁶⁷

The NSW and Victorian Acts also provide for the Commissioner of Police to make an interim closure order for up to 72 hours,⁶⁸ and a Local or Magistrates Court may order a long-term closure on an application by the Commissioner of Police.⁶⁹

⁶⁶ Section 15, NSW Act; Section 26, Victorian Act.

⁶⁷ Section 14, NSW Act; Section 19B, Victorian Act.

⁶⁸ Sections 17, NSW Act; Section 26ZT, Victorian Act.

⁶⁹ Section 18, NSW Act; Section 26ZU, Victorian Act.

TABLE 1: HISTORICAL AMENDMENTS TO SECOND-HAND DEALERS AND PAWNBROKERS ACT 2003

Amending Act	Amendments	Effective Date	Comments based on Explanatory Notes
<i>Tourism, Racing and Fair Trading (Miscellaneous Provisions) Act 2003</i>	2003 Act No. 94	05 July 2004	Corrected a reference to a section number and inserted a part number into the relevant part heading.
<i>Tourism, Fair Trading and Wine Industry Development (Miscellaneous Provisions) Act 2005</i>	2005 Act No. 14	22 April 2005	Inserted a new provision to allow the chief executive to delegate powers under the Act to appropriately qualified officers, which was generally provided for under statutes but inadvertently omitted when the Act was passed.
<i>Property Agents and Motor Dealers Act and Other Acts Amendment Act 2005</i>	2006 Act No. 10	15 March 2006	Minor and technical amendments.
<i>Justice (Fair Trading) Legislation Amendment Act 2008</i>	2008 Act No. 69	22 May 2009	Amended to include funding of CrimTrac services and to ensure action may be taken where false statements are made on applications for licences (or renewals of licences) in relation to whether the applicant has a relevant criminal history.
<i>Queensland Civil and Administrative Tribunal (Jurisdiction Provisions) Amendment Act 2009</i>	2009 Act No. 24	01 December 2009	Amended to reflect that QCAT has jurisdiction to review a decision of the chief executive to refuse to grant a licence or to grant a licence with conditions.
<i>Personal Property Securities (Ancillary Provisions) Act 2010</i>	2010 Act No. 44	30 January 2012	Provided that the interest of a pawnbroker in the proceeds of sale mentioned in subsection (1) is declared to be a statutory interest to which section 73(2) of the Commonwealth PPS Act applies.
<i>Directors' Liability Reform Amendment Act 2013</i>	2013 Act No. 51	01 November 2013	Replaced existing executive liability provision with an executive (deemed) liability provision for the Act.
<i>Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013</i>	2013 Act No. 64	01 July 2014	Amended to include that a person is not a suitable person to hold a licence if the person, or an associate of the person is an identified participant in a criminal organisation and that the chief executive may ask the Commissioner of Police if an applicant or licensee, or an associate of an applicant or licensee, is an identified participant in a criminal organisation.
<i>Fair Trading Inspectors Act 2014</i>	2014 Act No. 82014 Act No. 20	01 December 2014	Technical amendments for <i>Fair Trading Inspectors Act 2014</i> .
<i>Serious and Organised Crime Legislation Amendment Act 2016</i>	2016 Act No. 62	09 December 2016	Amended to prevent criminal organisations (including outlaw motorcycle gangs) and their members from infiltrating legitimate industries and occupations. Also included minor amendments to enable the Office of Fair Trading to make changes, in particular types of information held about licensees, by a range of methods (including telephone) rather than written notification and to enable the Commissioner of Police to inform the chief executive of a change in a licensee's criminal history.
<i>Justice and Other Legislation Amendment Act 2020</i>	2020 Act No. 15	25 May 2020	Technical amendments (which mainly replaced a reference to 'an externally-administered body corporate' in section 7(1)(d), Suitability of applicants and licensees, with 'a Chapter 5 body corporate under the Corporations Act').

3. Queensland Police Service

The Queensland Police Service (QPS) is the key Queensland Government agency responsible for responding to reports of metal theft, as part of its functions to prevent crime, detect offenders and bring offenders to justice.

Metal theft is having an impact across the state and is affecting many different Queenslanders. The QPS is aware of thieves targeting a range of victims, including:

- the agricultural industry, to steal metal from machinery, wiring, batteries and solar panels from farms and mines
- the construction industry, to steal metal by either breaking into construction sites or by workers stealing or facilitating theft from sites
- new home builds, unoccupied disaster-affected homes and existing homes to take wiring, hot water and plumbing systems, sidings or gutters
- the scrap metal industry, to steal metal being held in scrapyards
- the transport sector, including metal on rail tracks and in traffic signals
- motor vehicle parts such as catalytic converters, diesel particulate filters and batteries.

Thieves are also targeting critical infrastructure assets to steal metal. This includes important public utilities such as electrical and telecommunications providers. Thefts have resulted in disruptions to electricity supply which have significant flow-on effects for the community from rectification costs to lost revenue and impacts on community safety.

Where businesses are affected by disruptions caused by metal theft—either directly or through loss of upstream services such as electricity supply—the effect can linger for a considerable period. There may be damage done by offenders to property that needs to be repaired. And, where disruptions to essential services continue, businesses may be unable to operate and workers unable to do their jobs.

There are also significant risks to the safety of all responders to metal theft, including police officers. Thieves frequently target electrical cabling that contains copper or aluminium wiring. Oftentimes, the remaining wiring continues to be electrified and is left compromised without proper safety measures in place. This places responders at risk of significant injury or death. Offenders have died by electrocution while attempting to steal metal.

Examples of metal theft

Gateway motorway

Between May and June 2023, police detected that copper cabling was stolen along the Gateway Motorway and Gympie Arterial Road from traffic message boards and lighting along pathways next to the road. Evidence shows that offenders attended to cut cables during the day when the streetlights were turned off and returned to steal the cabling at night. This compromises the safety features of the wiring and poses a serious risk of injury or death to the offender, responders and passers-by from electrocution should the wires become live when turned on at night. Furthermore, unlit pathways may facilitate additional criminal activity. Road users are also at risk of harm when traffic message boards are compromised and critical information about hazards, road closures or changed traffic conditions cannot be communicated to motorists.

GrainCorp, Dalby

In May 2023, offenders entered a GrainCorp site at Nandi. The offenders rammed a vehicle into the switchboard to disable the electricity supply before stripping copper from the fuse box, control box, and wire channels across the site. As well as approximately \$100,000 in damage, the site experienced a loss of production of four to eight weeks. GrainCorp has been repeatedly targeted by metal theft in both the Darling Downs and Southwest Districts.

Types of metal being stolen

There are many types of metal that are frequently stolen to be resold to second-hand dealers or pawnbrokers as scrap metal.

Types of metal that have been detected as stolen by the QPS include:

- aluminium
- batteries
- brass
- bronze
- cabling and wires
- copper
- precious metals like palladium, platinum and rhodium
- steel.

Because of how information is captured in police databases, it is difficult to determine with a high level of accuracy the type of metal that was stolen in a particular offence. This is due to that information not being captured as a discrete statistical data point. Accordingly, the Queensland Government is unable to provide any data about the relative theft of different types of metal.

The QPS anticipates that metal theft is underreported.

Amount of metal being reported stolen*

The QPS continues to receive a relatively steady number of reports of metal theft over the last 5 years, considering the impact of the COVID-19 public health emergency on crime statistics. There was a decrease of 9.5% in the number of metal theft offences, as shown in Table 1. There was also a decrease in 15.2% in the rate of offences per 100,000 persons, as shown in Table 2.

The Far Northern policing region had an increase of 13.5% in the number of reported metal theft offences across the 5-year period and an increase of 9.5% in the rate of offences per 100,000 persons. In all 5 financial years, the Southern policing region had a rate of reported metal theft offences per 100,000 persons higher than the Queensland rate.

Table 1 — Number of reported metal theft offences

Region	2018-19	2019-20	2020-21	2021-22	2022-23	% change
Queensland	1665	1505	1117	1157	1507	↓9.5%
Brisbane	377	372	302	331	388	↑2.9%
Central	146	122	114	85	134	↓8.2%
Far Northern	74	73	52	65	84	↑13.5%
North Coast	324	241	200	193	300	↓7.4%
Northern	66	92	43	77	68	↑3.0%
South Eastern	390	381	244	233	266	↓31.8%
Southern	288	224	162	173	267	↓7.3%

Table 2 — Rate of reported metal theft offences per 100,000 persons

Region	2018-19	2019-20	2020-21	2021-22	2022-23	% change
Queensland	32.7	29.1	21.4	21.7	27.7	↓15.2%
Brisbane	25.7	25.0	20.3	22.0	25.3	↓1.4%
Central	35.2	29.1	27.0	19.8	30.7	↓12.8%
Far Northern	25.7	25.2	17.9	22.1	28.2	↑9.5%
North Coast	30.4	22.2	18.1	17.0	25.8	↓15.2%
Northern	24.7	34.2	16.0	28.2	24.6	↓0.1%
South Eastern	39.7	38.0	24.0	22.3	24.9	↓37.4%
Southern	47.0	36.0	25.7	26.8	40.4	↓14.2%

Consistent with the difficulty in investigating metal theft offences, only 18.2% of metal theft reports were solved on average over the 5-year period. State-wide, there was a decrease of 26.6% in the number of solved reports of metal theft, as shown in Table 3. The state-wide rate of solved reports of metal theft per 100,000 persons decreased by 31.2% over the period, as shown in Table 4.

Table 3 — Number of solved metal theft offences

Region	2018-19	2019-20	2020-21	2021-22	2022-23	% change
Queensland	406	362	253	266	298	↓26.6%
Brisbane	92	88	81	69	75	↓18.5%
Central	29	32	28	19	34	↑17.2%
Far Northern	23	24	11	20	28	↑21.7%
North Coast	94	57	37	46	57	↓39.4%
Northern	18	27	12	28	9	↓50.0%
South Eastern	85	75	41	32	32	↓62.4%
Southern	65	59	43	52	63	↓3.1%

Table 4 — Rate of solved metal theft reports per 100,000 persons

Region	2018-19	2019-20	2020-21	2021-22	2022-23	% change
Queensland	8.0	7.0	4.8	5.0	5.5	↓31.2%
Brisbane	6.3	5.9	5.5	4.6	4.9	↓21.9%
Central	7.0	7.6	6.6	4.4	7.8	↑11.4%
Far Northern	8.0	8.3	3.8	6.8	9.4	↑17.4%
North Coast	8.8	5.2	3.3	4.1	4.9	↓44.5%
Northern	6.7	10.0	4.5	10.3	3.3	↓51.5%
South Eastern	8.7	7.5	4.0	3.1	3.0	↓65.5%
Southern	10.6	9.5	6.8	8.0	9.5	↓10.3%

Following investigations of the reported metal theft offences, 1830 people have been charged with an offence in Queensland across the 5-year period. This represents a 4.8% decrease in charges over the period, as shown in Table 5.

Table 5 — Number of persons charged with metal theft offences

Region	2018-19	2019-20	2020-21	2021-22	2022-23	% change
Queensland	418	444	281	289	398	↓4.8%
Brisbane	88	104	104	70	99	↑12.5%
Central	30	39	26	21	32	↑6.7%
Far Northern	31	32	14	22	81	↑161.3%
North Coast	96	84	44	47	63	↓34.4%
Northern	19	29	11	28	13	↓31.6%
South Eastern	78	84	31	41	41	↓47.4%
Southern	76	72	51	60	69	↓9.2%

Of those charges, 1424 people or 77.8% of people charged with an offence in Queensland across the 5-year period have had their metal theft charges finally disposed of through the courts. This represents a 29.4% reduction in dispositions across the period, as shown in Table 6.

Table 6 – Number of persons charged with metal theft offences where the disposition is finalised

Region	2018-19	2019-20	2020-21	2021-22	2022-23	% change
Queensland	354	348	243	229	250	↓29.4%
Brisbane	78	91	96	59	66	↓15.4%
Central	25	30	22	19	17	↓32.0%
Far Northern	20	16	11	14	60	↑200.0%
North Coast	85	69	38	40	36	↓57.6%

Region	2018-19	2019-20	2020-21	2021-22	2022-23	% change
Northern	14	23	8	14	11	↓21.4%
South Eastern	69	59	23	33	21	↓69.6%
Southern	63	60	45	50	39	↓38.1%

The data stated above is an estimate only. There is no discrete statistical data point related to metal theft captured in QPRIME. There is also no agreed definition of metal theft, given that the term is not present in the *Second-hand Dealers and Pawnbrokers Act 2003*. To provide exact data would require a manual examination of every occurrence above (n=6951) to determine if it relates to relevant types of metal.

Investigating and disrupting metal theft

The QPS is committed to preventing, disrupting, responding to and investigating criminal offences in Queensland. Through investigation of community reports and standing up dedicated operations, the QPS continues to disrupt metal theft offenders and keep Queenslanders safe.

The QPS works collaboratively with other Queensland Government agencies, including the Department of Justice and Attorney-General and the Department of Environment and Science, to investigate and disrupt offending. This includes through joint operations with those other regulators and sharing information about persons of interest who may be in breach of regulatory obligations imposed under legislation administered by those regulators.

However, investigating metal theft is challenging due to the generic nature and properties of metal that make it difficult to identify its origin or ownership. Some forms of metal, such as catalytic converters or diesel particulate filters, do not have distinct markings or serial numbers, presenting difficulties in determining their source. Any identification markings can also usually be removed by burning or grinding.

Operation Cobre

During 2022, Operation Cobre in the South West District prevented and investigated metal theft offences against energy providers. Police worked with affected energy providers to share information to enhance situational awareness and implement prevention strategies to disrupt offences. Initial challenges included identification of poor reporting procedures and a disconnect in the investigation of offences. Prevention strategies included improved methods of identifying property, increasing private security and enhancing camera placement.

Charges in Morayfield

The QPS also responds to metal theft calls for service in business-as-usual responses. In June 2023, police charged two people with 2 counts each of entering a premises and committing an indictable offence, and 1 count each of stealing. The pair are alleged to have been located with a vehicle that

allegedly contained copper wiring and pipe that had been removed from the walls of an unoccupied house being developed in Morayfield.

Every scrap of information counts

In late 2022, the QPS launched a public awareness campaign to encourage people to report suspicious behaviour. Several articles have been published online highlighting the issues with metal theft with the tagline “every scrap of information counts” to drive online reporting.

Identifying theft across second-hand dealers and pawnbrokers

Section 39 of the *Second-hand Dealers and Pawnbrokers Act 2003* enables the creation of a requirement for second-hand dealers to provide police with particulars from a transaction register in a format and period as prescribed by regulation. However, no such regulation has ever been made. Instead, local police officers frequently attend second-hand dealers to collect copies of receipts. Some second-hand dealers elect to send data directly to the QPS either by email or post, but most provide hard-copy receipts.

The QPS operates the Stolen Property Investigation and Recovery System (SPIRS), which is a computer system supporting identification and recovery of stolen property. The QPS enters data provided by pawnbrokers and second-hand dealers through transaction registers into SPIRS. The data can then be queried to show the interaction of people, property and a second-hand dealer or pawnbroker, and assist in the identification of stolen property.

Members of the SPIRS Team manually enter data from the hard-copy receipts or electronic documents into SPIRS. Currently there are 6 resources dedicated to the SPIRS team, comprising one detective sergeant, one detective senior constable and four administration officers.

It can be difficult for data to be entered because of illegible handwriting or missing information contained in the document provided to police. The receipts collected from second-hand dealers and pawnbrokers are voluminous. It can also take quite some time for the data to be entered into the system. There is currently a backlog of approximately 7 months.

The usefulness of the data is also limited. Where the description of the property is poor, it is unlikely that this will be capable of being matched to any stolen property reports. Second-hand dealers must also obtain and verify the seller’s name and address prior to acquiring any property under section 47, however the Act does not prescribe how this verification is to occur. This creates difficulty for police to accurately trace stolen property to an offender.

Section 48 of the Act prescribes a requirement for second-hand dealers to report suspicious property to police. If a person gives a second-hand dealer property they have acquired that may be described as stolen or unlawfully obtained, the dealer must advise a police officer about the property as soon as practicable.

Offences relevant to metal theft

There are several offences that a person involved in metal theft may commit. These include:

Offence title	Section	Maximum penalty
Stealing	Criminal Code section 398	5 years imprisonment or that of a special case
Burglary	Criminal Code section 419	life imprisonment
Entering or being in premises and committing indictable offences	Criminal Code section 421	14 years imprisonment
Receiving tainted property	Criminal Code section 433	14 years imprisonment
Wilful damage	Criminal Code section 469	5 years imprisonment or that of a special case
Trespass	<i>Summary Offences Act 2005</i> section 11	20 penalty units or 12 months imprisonment
Unlawfully entering or remaining on particular land	<i>Summary Offences Act 2005</i> section 13	20 penalty units or 12 months imprisonment

* Data has been extracted for the period of 1 July 2018 to 30 June 2023 and is correct on 13 September 2023. These data are not official Service data as they are outside the bounds of what are published in official Service documents.

Data between 2020-21 and 2021-22 was captured during the COVID-19 public health emergency. Throughout this time, the Queensland Government implemented policies to reduce the spread of COVID-19, including public health directions to stay-at-home, border control measures, limits on gatherings, and social distancing rules. The statistics should be understood and interpreted within the broader context of the wide-ranging changes to everyday life during the pandemic.

Region refers to a policing region.

Rates are expressed per 100,000 persons and are calculated based on the estimated residential population as at 30 June of each year.

There is no agreed statistical definition of metal theft. The data is an estimate only and has been extracted using the following methodology.

Data includes the following offence types: 0711 burglary with breaking; 0712 burglary; 0713 burglary with violence or threats with breaking; 0714 burglary with violence or threats; 0715 enter with intent shop with breaking; 0716 enter with intent shop; 0717 enter with intent other premises with breaking; 0718 enter with intent other premises; 0720 break and enter unspecified building. Data includes occurrences where the property stolen or property remarks include any of the following: copper, cable, wire, pipe, piping, radiator, hot water system, hot water heater, water meter, water metre, earth strap, earthing strap, brass, bronze,

palladium, platinum, rhodium, catalytic converter, cat converter, diesel oxidation catalyst, diesel particulate filter, dpf, lithium, battery, batteries, scrap metal. And where the data property type is in any of the following: antiques (AAQ), appliance (DAP), attachment devices (ATT), automatic machines (ATM), building materials (BUO), building or structure (BUS), explosive (EXP), garden (GDE), household articles (HAR), machinery or tools (MCH), marine equipment (MAE), metal (MET), office equipment (OMC), other article (OTH), photographic equipment (PHO), sporting goods (SPO), street furnishings (SFN), vehicle/watercraft/aircraft parts etc (VEH) and weapons (WEA).

Solved offences are where the solved indicator has been reported as Crime: Solved and does not include offences that have been Cleared.

Persons charged only relates to those offences as listed above and where the offender has been charged under Criminal Code sections 419 (burglary) or 421 (entering or being in premises and committing indictable offences). The counts are a count of single person identifiers and are not unique.

Disposition status has been grouped by the following:

Finalised includes: court result final; court result final awaiting verification; court result committed.

Non-finalised includes: court result interim; court result interim court bail; court result interim failed to appear; court result interim remanded; court result referred to Prosecutions Review Committee; court result transmitted; diverted; pending.

4. Department of Transport and Main Roads

Since early 2021, there has been a notable increase in vandalism and theft affecting the Department of Transport and Main Road's (TMR) Intelligent transport systems and electrical (ITS&E) and road lighting assets. TMR is also aware that the theft of copper cable is not only occurring on existing departmental assets, but also on construction projects being delivered on behalf of the department.

ITS&E and road lighting assets

Type of theft

The most significant area in which theft has increased in recent years has been electrical copper cabling. Electrical copper cabling is used to power TMR's road lighting and CCTV cameras. In most cases, these assets are in operational service and electrically energised when perpetrators illegally access electrical cabling enclosure pits to remove the cables. In addition to the rise in copper cable theft, TMR has also seen an increase in the number of lithium batteries and solar panels which have been stolen. This practice is impacting vital road safety assets, such as illuminated warning signs and road lighting.

Road lighting provides an essential safety function in enabling road-users to see hazards and negotiate the road ahead. It also provides pedestrians with increased safety, awareness of their surroundings, and enables greater levels of passive surveillance. In addition, the theft of solar panels and batteries which power assets, such as illuminated warning signs, also create a direct risk to the safety of road-users.

Financial impacts

The direct impacts of reinstatement of operational ITS&E sites affected by theft and vandalism are significant and affect the departmental budgets and the ability to provide optimised outcomes for Queensland's road-users. These impacts include replacing material (including copper cable stolen from departmental assets, stockpile sites and from work vehicles transporting cable), as well as the re-installation of that material by contractors.

The large quantity of cable pits that TMR has installed on the road network makes it financially impossible to implement deterrent solutions at all locations. Additionally, implementation of deterrents can have flow on cost impacts to maintenance practices. Implemented measures have not stopped determined people so far.

Monitoring

TMR monitors its lighting Control and Monitoring System (CMS) daily for any loss of power or communication. This provides the ability to identify the time at which cabling is being cut, which may assist the Queensland Police Service (QPS) to place offenders at the scene. To assist with the department's ability to more effectively monitor this, TMR has engaged a vendor to investigate enhanced alarm functionality within the system. TMR is also made aware of an outage by being notified by members of the public or through routine inspections carried out by the department. In remote areas, where there are less users on the network, it may take longer for a fault notification to be reported. Once TMR has been advised of an incident, the electrical installation at the site is made electrically safe. However, restoration of the road safety services is not immediate and, in some cases, can take significant time to reinstate.

Prevention measures

TMR has implemented a range of physical and visual deterrents across its network. However, there are still significant instances of theft occurring on a regular basis across the state-controlled road network.

Many of TMR's older cabling enclosure pits are typically more vulnerable to deliberate illegal access as they do not have modern pit lid mechanisms. TMR is trialling a number of solutions to deter perpetrators, such as more theft resistant cable pit lids, surveillance cameras and patrols, batteries which can be directly buried into the ground without the need for an access pit, covering access pits with sand and asphalt, and also various anti-theft and anti-vandalism innovations. These solutions all come at a higher cost and impact the program budgets significantly.

Wom-Batt underground lithium power pods are now being trialled at Wireless Traffic Sensor sites in conjunction with fortified cabinets. Both products are specifically designed to eliminate theft and have been successfully implemented. The department is also working with the University of Queensland to conduct a comprehensive review into anti-theft solutions and their effectiveness, including cost estimates. To assist with this research, TMR is collating an internal report of all mitigation strategies trialled and discussed to date.

TMR has, and will continue to, deliver innovative technologies and innovative infrastructure solutions, to ensure its network is as resilient as possible. Technology solutions, such as microdot technology, have been implemented overseas to uniquely identify cable ownership. These have been successful in reducing cable theft when accompanied by supporting legislation. However, while these innovations provide a level of deterrence, they are expensive and are still not wholly effective in deterring the most determined of perpetrators.

Safety

In most cases, the theft of electrical assets is occurring on assets which are electrically energised. This not only creates a risk to the perpetrators, but also creates a residual risk to staff working to reinstate the cabling. In some cases, cable pits are left open and electrically energised wiring exposed, which presents a significant electrical safety risk to the general public. Not only are these thefts creating direct risks to human life, but the theft of assets which impact devices, such as CCTV cameras and vehicle detection equipment, also reduce TMR's ability to safely and effectively manage road congestion and incidents on its network.

Construction Projects

Type of theft

On occasion, unwieldy materials, such as installed guard rail and stainless-steel handrails, have been stolen. There have been many projects that have reported missing materials that range from stored on site or fully installed. The problem of theft at construction sites is a significant and multifaceted issue that both principals and contractors must contend with. The consequences of theft at construction sites go beyond just the immediate loss of materials (not just copper).

Financial impacts

The theft can result in substantial financial losses for contractors if they are not correctly insured. The stolen materials need to be replaced, and the cost of replacement can be higher than the original purchase price and there could be administration costs that cannot be insured. Frequent theft incidents can result in higher insurance premiums for construction companies. Insurers may view construction sites as higher risk due to the prevalence of theft, which can increase the overall cost of construction projects. Additionally, the damage caused during theft adds to the financial burden. The theft can lead to project delays, which can be costly in terms of resources and time. When crucial materials are stolen, it can disrupt the construction schedule and push back project completion dates.

Safety

Outside of the actual theft event, the construction theft can create knock-on safety hazards and supply issues on-site. Thieves may tamper with structures, electrical systems or equipment, potentially leading to accidents or injuries for construction workers. Construction materials and equipment are often in high demand, and theft exacerbates shortages in the supply chain and can create psychological safety issues.

Other impacts

Theft of copper cable is impacting construction projects through:

- cost of replacing existing copper cables within the project extents (cable, labour and traffic management);
- cost of replacing new copper cables installed as a part of the project works (cable, labour and traffic management);
- cost of replacing copper cables utilised for temporary and staging works (road and pedestrian lighting);
- delaying the project's ability to commission ITS and electrical installations therefore resulting in contractor prolongation claims;
- taking resources away from contractors' original project scope to undertake cable replacement activities; and
- long lead times on larger cable sizes (greater than 35mm cable) – delaying project commissioning and completion, thereby contractors release of Possession of Site.

Legal implications

TMR may be liable in negligence if TMR owes a duty of care to anyone who enters land owned or controlled by TMR, TMR breaches that duty of care, and the breach causes damage to property or injury to a person where the damage is not too remote a consequence of the breach of duty of care. Whether or not TMR is liable for particular injury caused by electrically energised wires will depend on the specific circumstances, including (but not limited to) the extent of TMR's control over the land, the purpose for which the person enters the land, TMR's knowledge of people lawfully or unlawfully entering the land, TMR's knowledge of any risk associated with people entering the land,

the nature or severity of that risk, actions taken by TMR to prevent the access or mitigate the risk and the extent of the damage or injury.

Under s35 of the *Civil Liability Act 2003* (CLA) whether or not TMR has breached its duty of care will also depend on consideration of, for example, TMR's financial and other resources, allocation of those resources and compliance with TMR's general procedures. However, TMR's liability in negligence may not be limited under s35 of the CLA where, for example, TMR is aware of previous thefts or that an electrically energised wire remains on land owned or controlled by TMR.

Reporting incidents to Queensland Police Service

TMR continues to report incidents to QPS, and a number of offenders have been caught through links with other crimes. TMR has also held high-level discussions with QPS, requesting that it raises awareness of these thefts with all personnel travelling through the network. TMR will continue to raise this with QPS when opportunities arise.

5. Department of Resources

The Department of Resources does not have a direct regulatory role in the identification, prevention, or prosecution of scrap metal or copper theft and so cannot comment on many of the elements of the inquiry's terms of reference.

However, the Department does regulate the mineral, coal, and petroleum and gas industries in Queensland. Because these industries are made up of organisations with high-value, remote and regional operations, they can and have been frequent targets for the theft of scrap metal, copper lines, and other equipment.

The Department is therefore able to provide advice about some elements of the terms of reference including the types of metal at risk of being stolen and resold as scrap, the direct and indirect impacts of scrap metal theft on Queenslanders, the direct and indirect risks to worker and community safety, and the effectiveness of some existing non-regulatory measures.

5.1 The types of metal at risk of being stolen and resold as scrap, taking into consideration copper, precious, and other metals, and vehicle parts

The Department of Resources has been advised by Australian Energy Producers (AEP)- the peak body of the explorers, developers and producers of essential energy (Formerly APPEA) – that from early 2020, a number of gas producers have sustained repeated numerous well-site thefts, primarily of copper cabling, and then other items such as batteries, fuel and equipment.

The Department also understands that a number of mines have also been subject to the theft of copper cabling and other equipment from staging areas.

5.2 The prevalence of scrap metal theft in Queensland

AEP have advised the Department that evidence from the members show that over 500 well sites have been impacted by theft activities in the past year. The Department understands that copper theft is prevalent in most industries in regional and metropolitan Queensland, including the construction industry as well as the gas and electrical industries.

The anecdotal instances the Department has been advised of in relation to thefts from mine sites appear to be more opportunistic and dispersed in nature.

5.3 The direct and indirect impacts of scrap metal theft on Queenslanders, such as costs, disruption, and essential service delivery

The Department is advised that the impact to the petroleum and gas industry is expected to exceed \$50 million over the past year including damages, lost time and lost production, with additional material impacts felt across upstream and midstream production.

5.4 Direct and indirect risks to worker and community safety, as well as other risks such as environmental harm

The primary risk in relation to the theft of copper cabling and other live components is the potential loss of life; the copper being stolen from well sites is typically live, high voltage equipment with a material risk of electrocution for the thieves.

There is an additional risk to contractors and field operators who are required to repair the site, as well as to any civilians or landholders in the area until the damage caused by the theft is rectified.

5.5 Other non-regulatory measures, such as information sharing, education and public awareness raising, and technology solutions, which may assist in reducing the prevalence and impact of scrap metal theft in Queensland

AEP has advised the Department that the most heavily affected companies have actively engaged with the Queensland Police Service (QPS) and have undertaken steps to 'harden' their well sites by – for example- installing CCTV, lights, alarms, fencing and instituting nightly security patrols.

We understand that these activities, and the collaboration with QPS has been a successful approach that has led to the eventual reduction of incidents from their peak.

6 Department of Tourism, Innovation and Sport

Inquiry question 1: the types of metal at risk of being stolen and resold as scrap, taking into consideration copper, precious, and other metals, and vehicle parts:

The Department of Tourism Innovation and Sport (DTIS) advises that the types of metal being stolen from sport and recreation facilities are copper, aluminium and galvanised steel. The typical items are air-conditioning compressor lines, water lines and treads.

Inquiry question 2: how the scrap metal market operates, including the supply chain and payment methods:

DTIS is unaware of how the market operates as it is not involved in these operational matters. If any incidents are brought to the attention of the department by sport or active recreation clubs, they are advised to refer the matter to the Police.

Inquiry question 3: the prevalence of scrap metal theft in Queensland:

The Innovation Divisions and Tourism Divisions within DTIS are unaware of scrap metal theft as issues within their sectors and Stadiums Queensland has advised they are unaware of any incidents of scrap metal theft within their venue portfolio.

The Sport and Recreation Division, DTIS has not had any incidents at its venues. However, it is sometimes brought to the attention of the Sport and Recreation Division when community sport and recreation clubs or organisations have experienced scrap metal theft. Individual incidents are not recorded, however it is estimated that over the last five years, unofficial reports of theft have affected in excess of 100 sport and recreation clubs across Queensland. There are times such as following a disaster, where theft may be more common.

The Brisbane City Council has advised DTIS there has been significant impact at a Local Government Areas level and DTIS recommends the Committee may wish to consult with Local Governments to understand the issue at a local level.

Inquiry question 4: the direct and indirect impacts of scrap metal theft on Queenslanders, such as costs, disruption, and essential service delivery:

There is an increased cost for construction of sport and recreation infrastructure because of the building design requirements to mitigate against scrap metal theft. This increased cost could be in the vicinity of 10%.

The impact on community clubs when theft occurs varies. Repairs can be difficult for local not-for-profit clubs to fund, and depending on the damage, this can cause an interruption to sport participation. If copper from lighting is stolen for example, this can mean no night games for a club until repairs can be arranged.

Inquiry question 5: direct and indirect risks to worker and community safety, as well as other risks such as environmental harm:

DTIS is unaware of any instances of worker or community safety being compromised to date. The majority of sport and recreation infrastructure in Queensland is owned by local governments. However, as the lessee of these facilities sport and recreation clubs and organisations are required

to have public liability insurance. Public liability insurance is likely to cover any incidents if a member of the club or a member of the public was injured by live wires occurring as a result of scrap metal theft. Clubs would be required to act swiftly to provide a duty of care to prevent accidents. As an example, if there was an open pit after theft, the club should install barriers and or signage to alert people of the potential danger.

Inquiry question 6: the effectiveness of the existing Queensland laws and approach in preventing, investigating and prosecuting scrap metal theft in Queensland:

DTIS is unable to provide any recommendations in this matter. Sport and Recreation advise clubs and associations to refer matters to the Police but are unaware of the outcomes of any individual incidents.

Inquiry question 7: recommended contemporary legislative, regulatory and enforcement framework for deterring, detecting and disrupting scrap metal theft which is informed by national and international approaches and experiences:

DTIS is unable to provide any recommendations in this matter.

Inquiry question 8: other non-regulatory measures, such as information sharing, education and public awareness raising, and technology solutions, which may assist in reducing the prevalence and impact of scrap metal theft in Queensland:

To assist in mitigating against scrap metal theft, Sport and Recreation Division within DTIS provides advice to sport and recreation clubs and organisations in relation to design principles such as:

- Concealing pipework installations within walls, ceilings and underground where possible.
- Where this is not possible, DTIS suggest that top hat sections or other coverings are utilised.
- DTIS also recommend the use of anti-tamper screws, closed circuit TV to deter theft and lockable underground pits.

Sport and Recreation has also undertaken awareness raising through its industry newsletter.

7 Department of Education

The Office of Industrial Relations includes Workplace Health and Safety Queensland (WHSQ) and the Electrical Safety Office (ESO).

Through the work of WHSQ and ESO, we aim to improve work health and electrical safety to reduce the risk of work-related fatalities, injuries and disease to keep all Queenslanders electrically safe. We do this by ensuring compliance with the *Work Health and Safety Act 2011* (WHS Act) and the *Electrical Safety Act 2002* (ES Act), along with relevant codes of practice and standards.

The Office of Industrial Relations has concerns regarding the direct, and indirect risks, to worker and community safety, associated with scrap metal theft from electricity network infrastructure, as it may result in uncontrolled exposure to asbestos containing material and create electrical safety risks to people and property.

Electricity network infrastructure and electrical installations

Theft of copper/cabling that is 'in service' and energised exposes individual/s to the risk of electric shock, which may occur when they are removing the copper/cabling from service. Depending on the level of expertise, it is most likely this work is carried out when the installation is energised which increases the risk of exposure and potentially fatal consequences.

In April 2020, the ESO undertook a preliminary investigation into a workplace related reportable death where two males unlawfully entered a vacant industrial site to steal copper. In the process of cutting and removing wires at the location, one of the men suffered fatal injuries as a result of contacting energised electrical equipment. While this event was reported as a serious electrical incident, the circumstances were more appropriately investigated and dealt with by the Queensland Police Service.

Other than the electric shock risk, thieves are exposed to the risk of arc flash. Arc flash is similar to an explosion and can create a fire risk to the electrical installation and potentially exposes the individual/s to the risk of significant burns, exposure to poisonous gases and smoke inhalation.

The ES Act includes the 'duty of other person' at a place where electrical equipment is located. This includes taking reasonable care for their own electrical safety and reasonable care their acts/omissions do not adversely affect the electrical safety of others. Person/s perpetrating theft/damage to electrical equipment and installations hold such a duty and may commit offences under sections 40B, C or D of the ES Act (Category 1, 2 or 3 offences respectively). In circumstances where theft/damage results in electrical risk to others, the ES Act sections will apply, however, *Criminal Code* charges would also be applicable irrespective of any possible charge under the ES Act. Section 38 of the ES Act prescribes duties to 'persons in control of electrical equipment' to ensure that it is electrically safe. This may extend to circumstances where theft/damage has occurred where the person in control has knowledge of the event but does not manage the risks arising from the hazard.

As a result of copper theft, the integrity of the electrical installation is potentially compromised leaving first responders, workers and members of the public significantly exposed. Electrical workers arriving at sites to undertake maintenance and repairs, or others in the vicinity of the network are potentially exposed to contact with energised parts resulting in electric shock, a higher risk of arc

flash events, an increased likelihood of equipment damage and failure due to uncontrolled voltage rises and a compromised control system designed to monitor and provide an electrically safe network.

A compromise to the network earthing systems through copper theft affects the system designed to protect people from receiving electric shocks under fault conditions and may contribute to an increased likelihood of electric shock at residential and commercial premises, and an increased risk for the community of dangerous step and touch potentials.

Asbestos Containing Materials.

Scrap metal theft can occur in buildings constructed of Asbestos Containing Materials (ACM). To access scrap metal of value, persons may need to undertake uncontrolled demolition and stripping of non-friable and friable ACM. The uncontrolled dry stripping of asbestos pipe insulation and subsequent exposure is a particularly high-risk consequence of scrap metal theft.

Asbestos pipe insulation will likely be a friable material, posing a significantly higher risk of exposure if disturbed as friable materials generate airborne fibres more easily. The UK Health and Safety Executive document 'Asbestos Essentials' advises dry removal of lagging can generate up to 100 f/ml which is 1000 times the Australian workplace exposure limit (WEL) for asbestos.

Airborne asbestos exposure to persons involved in uncontrolled removal of asbestos insulation is likely significant, as the metal sought requires cutting and some degree of separating from the asbestos insulation.

Disturbance of ACM is likely to result in the contamination of clothing, tools and vehicles used during theft, and the onward handling of stolen pipework/metals during recycling/scraping poses an exposure risk to those involved.

The location where the ACM disturbance has taken place also presents an exposure risk to anyone subsequently entering the area as uncontrolled removal will generate significant dust and debris.

The Office of Industrial Relations supports the work of the Transport and Resources Committee's inquiry into scrap metal theft in addressing these issues and reducing the prevalence and impact of scrap metal theft in Queensland.